

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
WESTERN DIVISION**

Case No. 5:06-cv-00311-FL

**JUDITH KOHLBACH FULTON,
as Administratrix of the Estate of
Gregory Frederick Kohlbach, and
GARY A. KOHLBACH,**

Plaintiffs,

v.

MADELINE A. HARRISON,

Defendant.

**PLAINTIFFS' MOTION FOR
SUMMARY JUDGMENT**

NOW COME Plaintiffs, pursuant to Rule 56 of the Federal Rules of Civil Procedure, and hereby move the Court for the entry of summary judgment in their favor on all of the claims and defenses pending in this civil action on the grounds that the pleadings, discovery, and disclosure materials on file show that there is no genuine issue as to any material fact in this action and Plaintiffs are entitled to judgment as a matter of law. Pursuant to Local Civil Rule 7.1(d), EDNC, Plaintiffs have filed a Memorandum of Law in Support of Plaintiffs' Motion for Summary Judgment. Plaintiffs have also filed a Notice of Filing which sets forth the discovery and disclosure materials that demonstrate their entitlement to summary judgment.

WHEREFORE, Plaintiffs request that the Court grant their Motion for Summary Judgment, issue a Judgment allowing either Plaintiff Judith Kohlbach Fulton, as Administratrix of the Estate of Gregory Frederick Kohlbach, or Plaintiff Gary A. Kohlbach to recover the benefits from Decedent's two retirement plan accounts, and granting such further relief as may be just and proper.

This the 27th day of October, 2008.

/s/ Carlos E. Mahoney

Carlos E. Mahoney

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CERTIFICATE OF SERVICE

I, Carlos E. Mahoney, do hereby certify that I electronically filed the foregoing document entitled, **Plaintiffs' Motion for Summary Judgment**, with the Clerk of Court for the Eastern District of North Carolina using the CM/ECF system which will send notification of the filing to the following CM/ECF participants: Gavin Parsons for Defendant Harrison.

Respectfully submitted,

/s/ Carlos E. Mahoney

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